



ZACHARY W. CARTER
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

Evan Brustein
Senior Counsel
phone: (212) 356-2651
fax: (212) 356-3509
email: ebrustei@law.nyc.gov

July 10, 2017

VIA ECF

Honorable Alison J. Nathan
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Hassan Muhammad v. New York City, et al.
17 CV 625 (AJN)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department and am assigned to represent defendants The City of New York, Detective Jose Chevere, and Detective Antonio Esparra (hereinafter “Defendants”) in the above-referenced matter. I write, with the consent of plaintiff’s counsel, Gabriel Harvis, Esq., to respectfully request an enlargement of time from July 12, 2017 up to and including three weeks from the date on which plaintiff files proof of service on the final named defendant, within which Defendants may answer or otherwise respond to the Complaint.¹ This is Defendants’ first request for an enlargement of time to answer or otherwise respond to the Amended Complaint.

By way of background, plaintiff alleges, *inter alia*, that he was falsely arrested on September 15, 2015, and was subsequently maliciously prosecuted. This case was designated for participation in the Southern District’s Section 1983 Plan pursuant to Local Civil Rule 83.10. Mediation was held on July 7, 2017, and was not successful.

On May 23, 2017, plaintiff filed an amended complaint naming seven additional individuals - Frank Monge, Jesus Rodriguez, Antonio Esparra, Michael Lopuzzo, Bart Snyder,

¹ Defendants City and Chevere filed an answer to the Amended Complaint on June 7, 2017.

Timothy Jaycox, and Hector Fuentes - as defendants. According to the civil docket sheet, the only defendant who has not yet been served with the Amended Complaint is Bart Snyder.

Upon information and belief, the newly-identified individual defendants are members of the New York City Police Department. We have not discussed service with these individuals, and in the event they were served, we make no representation herein as to the adequacy of service upon them. Additionally, a decision concerning this Office's representation of these seven officers has only been made with respect to Detective Esparra, and accordingly, this request for an extension of time is not made on the other individuals' behalves. However, given the time involved in determining the representation of a police officer, and in the interest of judicial economy, we hope that the court will, *sua sponte*, extend Frank Monge, Jesus Rodriguez, Michael Lopuzzo, Bart Snyder, Timothy Jaycox, and Hector Fuentes's time to answer or otherwise respond to the Complaint.

However, given the time involved in determining the representation of a police officer, and in the interest of judicial economy, we would hope that the court may, *sua sponte*, extend the time to answer on behalf of Frank Monge, Jesus Rodriguez, Michael Lopuzzo, Bart Snyder, Timothy Jaycox, and Hector Fuentes. If service has been effectuated, pursuant to Section 50-k of the New York General Municipal Law, this Office must determine, based on a review of the case, whether we may represent these officers. These officers must then decide whether they wish to be represented by this Office. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). If so, we must obtain these officers' written authorizations. Only after this procedure has been followed can we determine how to proceed in this case.

Based on the foregoing, and to allow Defendant Esparra the opportunity to file one joint response on behalf of all remaining individual defendants, Defendant Esparra respectfully requests an extension of time to and including three weeks after the plaintiff has filed proof of service on the final officer on ECF, to respond to the Amended Complaint. In the event the Court is inclined to grant this request, Defendants also respectfully request that the Court *sua sponte* similarly enlarge Frank Monge, Jesus Rodriguez, Antonio Esparra, Michael Lopuzzo, Bart Snyder, Timothy Jaycox, and Hector Fuentes' time to respond to the Amended Complaint as well.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Evan Brustein
Senior Counsel
Special Federal Litigation Division

cc: Gabriel Harvis, Esq.

Attorney for Plaintiff
(*via ECF*)